

Message Text

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SUBJECT:HIRC SUBCOMMITTEE HEARING ON WAR POWERS RESOLUTION
AND ZAIRE AIRLIFT

1. FOLLOWING IS TEXT OF STAFF WRITER T.R. REID'S ACCOUNT
OF AUGUST 10 HIRC SUBCOMMITTEE HEARING ON THE WAR POWERS
RESOLUTION AND THE U.S. AIRLIFT SUPPORT OPERATION DURING
SHABA II. ARTICLE APPEARED ON P. A8 OF AUGUST 11 EDITION
OF WASHINGTON POST: QUOTE:

A HOUSE INTERNATIONAL RELATIONS SUBCOMMITTEE YESTERDAY
AGREED WITH THE STATE DEPARTMENT THAT THE CARTER ADMINISTRA-
TION WAS NOT LEGALLY REQUIRED TO REPORT TO CONGRESS ON THE
US MILITARY AIRLIFT TO ZAIRE IN MAY.

ACCORDINGLY, THE INTERNATIONAL SECURITY SUBCOMMITTEE RE-
JECTED A RESOLUTION OFFERED BY REP. PAUL FINDLEY (R-ILL)
THAT WOULD HAVE CHARGED THE ADMINISTRATION WITH A VIOLA-
TION OF THE WAR POWERS ACT FOR FAILING TO FILE A FORMAL
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REPORT ON THE ZAIRIAN OPERATION.

THE WAR POWERS ACT, A JOINT RESOLUTION PASSED OVER
FORMER PRESIDENT RICHARD NIXON'S VETO IN 1973, REQUIRES
THE PRESIDENT TO REPORT TO CONGRESS WITHIN 48 HOURS WHEN
AMERICAN TROOPS "EQUIPPED FOR COMBAT" HAVE BEEN SENT
INTO A FOREIGN NATION, OR WHEN ANY AMERICAN SOLDIER IS

SENT TO A SPOT WHERE HOSTILITIES ARE "IMMINENT."

THE CARTER ADMINISTRATION DID NOT MAKE SUCH A REPORT LAST MAY WHEN U.S. C141 TRANSPORTS MANNED WITH AIR FORCE CREWS CARRIED MILITARY CARGO AND FRENCH AND BELGIAN MILITARY PERSONNEL INTO ZAIRE TO HELP DEFEND AGAINST KATANGAN TRIABESMEN WHO HAD INVADDED ZAIRE'S SHABA PROVINCE.

NOR WAS THERE A FORMAL REPORT IN JUNE WHEN AIR FORCE PLANES HELPED FERRY MORROCAN SOLDIERS ATTACHED TO AN INTERNATIONAL PEACEKEEPING FORCE INTO ZAIRE.

ON BOTH OCCASIONS, HOWEVER, THE ADMINISTRATION TOLD CONGRESSIONAL LEADERS BEFOREHAND OF THE PROPOSED AIR-LIFT OPERATIONS.

FINDLEY AND REP. JAMES LEACH (R-IOWA), WROTE TO THE STATE AND DEFENSE DEPARTMENTS QUESTIONING THE DECISION NOT TO FILE A FORMAL REPORT UNDER THE 1973 ACT. THE DEPARTMENTS REPLIED THAT THE ZAIRE AIRLIFT WAS NOT COVERED BY THE WAR POWERS LEGISLATION.

IN TESTIMONY BEFORE THE INTERNATIONAL SECURITY SUBCOMMITTEE YESTERDAY, STATE DEPARTMENT LEGAL ADVISER HERBERT J. HANSELL SAID THE MAY AIRLIFT WAS EXEMPT BECAUSE THE AIR FORCE CREWS WERE ARMED ONLY WITH REVOLVERS - UNCLASSIFIED

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AND THUS WERE NOT "EQUIPPED FOR COMBAT" -- AND BECAUSE THE AMERICANS NEVER WERE NEARER THAN 130 MILES TO THE SHABA FIGHTING.

THE JUNE AIRLIFT WAS EXEMPT, HANSELL SAID, BECAUSE THE KATANGANS HAD WITHDRAWN BY THE END OF MAY AND ZAIRE WAS NO LONGER A SITE OF OPEN WAR.

FINDLEY, QUOTING JUDGE LEARNED HAND ON THE IMPORTANCE OF FOLLOWING THE SPIRIT, AS WELL AS THE LETTER, OF LEGISLATION, CALLED THIS AN "INCREDIBLY NARROW INTERPRETATION" OF THE INCIDENT WHICH WAS "LITTLE MORE THAN A SUBTERFUGE OF THE LAW."

BUT THE SUBCOMMITTEE MEMBERS, INCLUDING CHAIRMAN CLEMENT ZABLOCKI (D-WIS.), WHO WAS THE CHIEF SPONSOR OF THE 1973

ACT, DISAGREED. ALL SAID THEY AGREED THAT THE ZAIRE OPERATION WAS NOT COVERED BY THE ACT, ALTHOUGH REP. JOHNATHAN BINGHAM (D-N.Y.), CALLED THE ISSUE "A CLOSE QUESTION."

WHEN FINDLEY SAW THAT HE HAD NO SUPPORT ON THE SUBCOMMITTEE, HE WITHDREW HIS PROPOSED RESOLUTION.

THE PRECEDENT ESTABLISHED BY YESTERDAY'S SUBCOMMITTEE ACTION IS LESS CLEAR.

"IT IS A VERY CRITICAL PRECEDENT FOR THE WAR POWERS ACT," FINDLEY SAID. "THERE'S NO DOUBT THAT A FUTURE PRESIDENT WILL TAKE THIS VERY NARROW INTERPRETATION TO AVOID REPORTING ON SOMETHING HE DOESN'T WANT TO TALK ABOUT."
END QUOTE.

2. STATEMENTS BY DEPARTMENT LEGAL ADVISER HANSELL AND REP. PAUL FINDLEY (R.-ILL), SPONSOR OF CONCURRENT UNCLASSIFIED

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RESOLUTION WHICH SUBCOMMITTEE REJECTED, ARE BEING SENT BY POUCH. VANCE

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